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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,957	02/26/2004	Christopher W. Blackburn	1842.023US1	5774
70648	7590	11/12/2008	EXAMINER	
SCHWEGMAN, LUNDBERG & WOESSNER/WMS GAMING P.O. BOX 2938 MINNEAPOLIS, MN 55402			DEODHAR, OKMAR A	
			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/789,957	BLACKBURN ET AL.
	Examiner	Art Unit
	OMKAR A. DEODHAR	3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 17 August 2007.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-46 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/20/2007</u> . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Final Rejection

Information Disclosure Statement

Signed copies of Applicant submitted IDS forms are provided with this Office action.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-46 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-31 of copending Application No. 10/788,902 & claims 1-36 of copending Application No. 10/788,661. Although the conflicting claims are not identical, they are not patentably distinct from each other because both inventions are directed towards methods for updating networked gaming machines with authentic and authorized services updated using a discovery agent.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Response to Amendment & Arguments

Applicant's arguments have been fully considered, but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gatto (US 6,916,247) in view of Tarantino (US 6,605,001).

Claims 1, 13, 20, 28, 40:

Gatto teaches:

A method for providing a gaming service in a gaming network (Col.2. Lines 37-45), the method comprising:

sending service information for the progressive service from the progressive service to a discovery agent on the gaming network,

(.)

While Gatto teaches network architecture for monitoring and controlling gaming devices, Gatto does not explicitly teach a "progressive service". Tarantino teaches progressive gaming services on networked gaming machines. See Tarantino, Abstract & Figure 3. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to extend Tarantino's teaching of progressive gaming services to Gatto's system for the purpose of enabling player tournaments in which players would not only compete for the same progressive jackpots, but actually compete against each other in real time. (See Tarantino Col. 1. Lines 39-50) Furthermore, progressive gaming is readily recognized in the art & applying it to Gatto's system is viewed as a substitution of known elements with predictable results.

Services are published & a discovery agent receives requests for the location of the service from gaming machines coupled to the network. See Figure 19: "Broadcast Availability"; Col. 13. Lines 64-67 & Col. 15. Lines 49-56 teaching publication of web services & software that searches for & binds to offered services. The networked gaming machines interact with network services using UDDI technology, for instance.

wherein the progressive service provides information regarding a progressive wagering game to a plurality of gaming machines operable to participate in a progressive wagering game, and wherein in response to a wager at one of the plurality

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of gaming machines the gaming machine depicts indicia representative of a randomly selected outcome of a wagering game;

(In view of Tarantino, the limitation of a progressive wagering game is taught.

See also Gatto Figure 3 showing a gaming machine with a display. Gaming machines show an outcome in response to a wager.)

determining by the discovery agent if the progressive service is authentic and authorized; in response to determining that the progressive service is authentic and authorized, publishing the service information to a service repository to make the progressive service available on the gaming network;

(Gatto teaches ensuring that service updates between devices and a central server are authentic and authorized. See Gatto Col. 2. Lines 59-61, where a Certificate Authority is disclosed. See Gatto Col. 8. Lines 61-64 disclosing network communication means for enabling data exchange between the gaming machine and central server.

See Gatto Col. 10. Lines 58-60, disclosing authorization of network operations.)

receiving by the discovery agent a request for the location of the progressive service from the gaming machine;

(See Gatto Col. 15. Lines 50-56 teaching publication of services & software that searches for and binds to the services.)

using the service information to register the gaming machine with the progressive service from a gaming machine;

(Gatto, Fig. 20 explicitly teaches the registration step. See also Col. 14. Lines 9-32), where it is noted that the server 112 registers with (or subscribes to) specialized devices (gaming machines)).

verifying that the gaming machine is authorized to utilize the progressive service; and processing one or more service requests between the gaming machine and the progressive service, said service requests conforming to [[a]] an internetworking protocol.

(Figures 19 teaches broadcasting availability & Figure 20 teaches registration; See also Col. 15. Lines 45-49; Col. 15. Lines 57-60; Col. 16. Lines 7-11 and Col. 18. Lines 4-6 discussing processing service requests between the devices.)

Claims 2, 3, 4, 14, 15, 21, 29-31, 41, 42:

Gatto discloses that the game management service is a web service, (Col. 15. Lines 49-56.) Gatto explicitly teaches the claimed "Web Services Description Language" (WSDL). See Col. 15. Lines 45-53.

Claims 5-12, 16-19, 22-27, 32-39, 43-46:

The claim limitations regarding progressive gaming/services are taught by the combination of Gatto & Tarantino.

Limitations of requesting update notifications, ending update notifications, requesting notifications of jackpot events, downloading configurations & requesting services are clearly taught by Gatto's network architecture for monitoring & controlling gaming devices. Refer to the citations provided with respect to claim 1 & the extensive disclosure of network services in Gatto, Col. 15. Lines 33-67 & Col. 16. Lines 1-42.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OMKAR A. DEODHAR whose telephone number is (571)272-1647. The examiner can normally be reached on M-F: 8AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/OAD/

/Corbett Coburn/
Primary Examiner
AU 3714